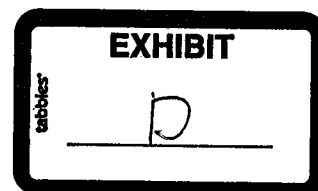


1 UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF MISSOURI  
3  
4 MISSOURI PRIMATE )  
FOUNDATION, ET AL., )  
5 )  
Plaintiffs, )  
6 )  
vs. ) Civil Action No.  
7 )  
PEOPLE FOR THE ETHICAL ) 4:16-cv-02163-CDP  
8 TREATMENT OF ANIMALS, )  
INC., ET AL., )  
9 )  
Defendants. )

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DEPOSITION OF DR. DOUGLAS PERNIKOFF  
TAKEN ON BEHALF OF THE DEFENDANTS  
JUNE 27, 2018



<p style="text-align: right;">Page 5</p> <p>1 ALSO PRESENT:  2 ALARIS  3 711 North 11th Street  4 St. Louis, Missouri 63101  5 (314) 644-2191  6 1-800-280-DEPO  7 by: Ms. Tara Schwake, CRR, RPR, CCR, CSR  8 transcripts@alarislitigation.us  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>	<p style="text-align: right;">Page 7</p> <p>1 Q And how long have you worked there?  2 A Twenty-four years.  3 Q What are your responsibilities?  4 A I am the owner and I am also a  5 general practitioner and I play vet every day.  6 Q Are you familiar with the Missouri  7 Primate Foundation?  8 A I am.  9 Q And at some point did you become a  10 member of the governing board?  11 A When I was just graduating, I met  12 them about 36 years ago, and they asked me to be on  13 their board and at that time I was very excited to  14 be involved, especially with exotic species.  15 Q Who asked you to be on the board of  16 the Missouri Primate Foundation?  17 A I think it was, if I remember, it was  18 probably Connie and her husband at that time was --  19 what's his name?  20 Q Is it Mike?  21 A Mike Casey.  22 Q Connie and Mike Casey?  23 A Yeah.  24 Q And did Connie and Mike Casey tell  25 you why they wanted you to join the Missouri</p>
<p style="text-align: right;">Page 6</p> <p>1 IT IS HEREBY STIPULATED AND AGREED by  2 and between Counsel for Plaintiffs and Counsel for  3 Defendants that this deposition may be taken by  4 Tara Schwake, Notary Public and Certified Realtime  5 Reporter, thereafter transcribed into typewriting,  6 with the signature of the witness being expressly  7 waived.  8 DR. DOUGLAS PERNIKOFF,  9 of lawful age, having been produced, sworn, and  10 examined on the part of Defendants, testified as  11 follows:  12 *****  13 (Deposition commenced at 9:27 a.m.)  14 EXAMINATION  15 QUESTIONS BY MS. BERNSTEIN:  16 Q Good morning, sir.  17 A Hi.  18 Q Are you presently employed?  19 A Yes.  20 Q And where are you employed?  21 A The Clarkson-Wilson Veterinary Clinic  22 in Chesterfield.  23 Q And what does that business do?  24 A It's a veterinary, all service  25 veterinary clinic.</p>	<p style="text-align: right;">Page 8</p> <p>1 Primate Foundation board?  2 A Not particularly. I assume because  3 of my interest in exotic animals.  4 Q Did you have any discussions with  5 them about what was expected of you as a board  6 member?  7 A No.  8 Q Do you know when Missouri Primate  9 Foundation was incorporated?  10 A I do not.  11 Q Do you have any records relating  12 specifically to your service as a board member?  13 A There was zero activity.  14 Q And when you say "there was zero  15 activity," what do you mean?  16 A I didn't even remember that I was on  17 the board recently until it was presented to me.  18 So I think it was just like a perfunctory title  19 they wanted to have maybe because of my interest in  20 exotics.  21 Q When you say it was recently brought  22 back to your attention, who -- who brought it to  23 your attention?  24 A I think it was Kurt Reeg, who was  25 serving at one point as Connie's attorney and he</p>

2 (Pages 5 to 8)

<p style="text-align: right;">Page 9</p> <p>1 said, "Well, you're on the board." I go, "I am?"</p> <p>2 So I had to dismiss myself from the board right</p> <p>3 away.</p> <p>4 <b>Q Oh. So you dismissed yourself from</b></p> <p>5 <b>the board?</b></p> <p>6 A I had my lawyer send them a note</p> <p>7 dismissing myself formally.</p> <p>8 <b>Q And do you know when that was done?</b></p> <p>9 A I would -- no, I don't have an exact</p> <p>10 date. I can certainly get you that.</p> <p>11 <b>Q Do you have a approximate date</b></p> <p>12 <b>perhaps with reference to the pending lawsuit? Was</b></p> <p>13 <b>it after --</b></p> <p>14 A Well, it had to be after</p> <p>15 communication was made, but I know it was before</p> <p>16 the formal lawsuit, okay? So I just know there was</p> <p>17 discussion that PETA was interested in, you know,</p> <p>18 getting these chimps.</p> <p>19 <b>Q So is your understanding that before</b></p> <p>20 <b>litigation was filed by anybody, you were aware</b></p> <p>21 <b>that PETA was interested in getting chimpanzees</b></p> <p>22 <b>from the Missouri Primate Foundation transferred?</b></p> <p>23 A Well, I just knew that they were</p> <p>24 interested in whatever they would do, you know, to</p> <p>25 discuss that. I don't know what the specifics</p>	<p style="text-align: right;">Page 11</p> <p>1 graduate. I was excited to be part of anything</p> <p>2 that was exotic and that's all I knew. I wasn't</p> <p>3 sophisticated as a business person or anything like</p> <p>4 that.</p> <p>5 <b>Q May I ask how old you are presently?</b></p> <p>6 A Sixty-five. You got to finish before</p> <p>7 I die, this deposition.</p> <p>8 <b>Q You and me both. I might go before</b></p> <p>9 <b>you.</b></p> <p>10 A I don't think so.</p> <p>11 <b>Q All right. That should have been off</b></p> <p>12 <b>the record.</b></p> <p>13 A Whatever.</p> <p>14 <b>Q And in all the 30 years, if I</b></p> <p>15 <b>understand you correctly, you never -- there was</b></p> <p>16 <b>never any activity that you were called upon to act</b></p> <p>17 <b>in your capacity as a board member?</b></p> <p>18 A Correct. Actually more like 36</p> <p>19 years.</p> <p>20 <b>Q Would it be fair to say that you --</b></p> <p>21 <b>are you aware of any safeguards that were put in</b></p> <p>22 <b>place that would have prevented Miss Casey from</b></p> <p>23 <b>exercising sole and complete control over Missouri</b></p> <p>24 <b>Primate Foundation?</b></p> <p>25 A I -- I am not sure I even understand</p>
<p style="text-align: right;">Page 10</p> <p>1 were. I assume that means moving the chimps.</p> <p>2 <b>Q And who told you that? Who did you</b></p> <p>3 <b>have these conversations with?</b></p> <p>4 A Well, I think it was when Kurt Reeg</p> <p>5 -- I can't recollect but I think it was when Kurt</p> <p>6 Reeg explained that I was a board representative</p> <p>7 and I said, well, I don't want to be a board</p> <p>8 representative, we haven't done anything.</p> <p>9 <b>Q So you told Mr. Reeg that you didn't</b></p> <p>10 <b>want to be on the board and you hadn't --</b></p> <p>11 A I had my attorney just send a note</p> <p>12 dismissing my position.</p> <p>13 MR. BALDWIN: I don't think that was</p> <p>14 me. That might have been before my time but I can</p> <p>15 look.</p> <p>16 <b>Q (BY MS. BERNSTEIN) That would be</b></p> <p>17 <b>great just so we can have the date pinned down, but</b></p> <p>18 <b>certainly Mr. Reeg and Ms. Casey should have a</b></p> <p>19 <b>record of that; is that a fair assumption?</b></p> <p>20 A Yes.</p> <p>21 <b>Q When you first agreed to serve on the</b></p> <p>22 <b>board, did you understand you would hold certain</b></p> <p>23 <b>fiduciary obligations to Missouri Primate</b></p> <p>24 <b>Foundation?</b></p> <p>25 A I was 30 years old. I was a new</p>	<p style="text-align: right;">Page 12</p> <p>1 that but I mean, I don't know, no.</p> <p>2 <b>Q So as far as you know, Miss Casey</b></p> <p>3 <b>could have done whatever she wanted to with the</b></p> <p>4 <b>Missouri Primate Foundation?</b></p> <p>5 A I -- it's not -- it's not in my</p> <p>6 wheelbase. I wouldn't have any idea what the</p> <p>7 purpose of the board is.</p> <p>8 <b>Q So it would be fair to say that Miss</b></p> <p>9 <b>Casey never sought the board's consent or input</b></p> <p>10 <b>about how to spend the funds of the organization,</b></p> <p>11 <b>for example?</b></p> <p>12 A Correct.</p> <p>13 <b>Q And she never sought the board's</b></p> <p>14 <b>consent or input about her decision, or the</b></p> <p>15 <b>decision of Missouri Primate Foundation to sue</b></p> <p>16 <b>PETA?</b></p> <p>17 MR. BALDWIN: Can I at least be with</p> <p>18 the understanding that he was aware of? Or to his</p> <p>19 knowledge?</p> <p>20 MS. BERNSTEIN: Of course. Of</p> <p>21 course.</p> <p>22 <b>Q (BY MS. BERNSTEIN) I'm asking only</b></p> <p>23 <b>your personal knowledge. You were not aware that</b></p> <p>24 <b>Miss Casey ever sought the board's consent or input</b></p> <p>25 <b>into whether or not to actually sue PETA?</b></p>

<p style="text-align: right;">Page 13</p> <p>1 A Exactly.</p> <p>2 Q But you're aware that Missouri</p> <p>3 Primate Foundation did sue PETA?</p> <p>4 A I am aware.</p> <p>5 Q And do you know whether that was</p> <p>6 before or after you dismissed yourself from the</p> <p>7 board?</p> <p>8 A I feel pretty -- I don't know for</p> <p>9 sure but I feel pretty certain it was after I had</p> <p>10 already dismissed myself from the board.</p> <p>11 Q Do you know who decided whether</p> <p>12 Missouri Primate Foundation should be dissolved?</p> <p>13 A Nope.</p> <p>14 Q Perhaps to shortcut that, are you</p> <p>15 aware of the current status of whether or not</p> <p>16 Missouri Primate Foundation currently is</p> <p>17 functioning as a corporation?</p> <p>18 A I was told, and I believe it was Mr.</p> <p>19 Batten, her current attorney, said something to the</p> <p>20 effect that Connie had let the corporate standing</p> <p>21 pass, unintentionally, and at that point they said,</p> <p>22 well, there's no reason to pursue it at this point</p> <p>23 to reinstate it.</p> <p>24 Q You refer to "Mr. Batten." Was that</p> <p>25 Daniel Batten?</p>	<p style="text-align: right;">Page 15</p> <p>1 Q (BY MS. BERNSTEIN) Dr. Pernikoff,</p> <p>2 have you been hired as a non-testifying consultant</p> <p>3 in this case?</p> <p>4 A I don't believe so.</p> <p>5 Q Right. You certainly would know if</p> <p>6 somebody hired you and said, can you be a</p> <p>7 non-testifying expert in this case?</p> <p>8 A Yes. I assume so.</p> <p>9 Q Have you been hired to testify as a</p> <p>10 -- as an expert in this case?</p> <p>11 A No. I was told that I might be able</p> <p>12 to provide expert witness if it ever went to trial.</p> <p>13 Q Right. Right. But at this point you</p> <p>14 have not been retained by Mr. Batten or Ms. Casey</p> <p>15 to serve in a consulting capacity with respect to</p> <p>16 this litigation; is that right?</p> <p>17 A Correct.</p> <p>18 Q Okay. Can you tell me what you</p> <p>19 discussed with Mr. Batten during your first phone</p> <p>20 call?</p> <p>21 MR. BATTEN: Again I'm going to</p> <p>22 object that the question calls for privileged</p> <p>23 communication.</p> <p>24 MS. BERNSTEIN: Sure.</p> <p>25 Q (BY MS. BERNSTEIN) You can answer.</p>
<p style="text-align: right;">Page 14</p> <p>1 A Yes.</p> <p>2 Q And how many times, roughly, have you</p> <p>3 spoken to him?</p> <p>4 A Probably two times.</p> <p>5 Q And the first time, when did you</p> <p>6 speak to him first?</p> <p>7 A I actually --</p> <p>8 MR. BATTEN: And I'm going to object</p> <p>9 to the question, that seeks privileged information.</p> <p>10 MS. BERNSTEIN: Okay. I -- I will</p> <p>11 need a foundation for that. Are you saying you are</p> <p>12 in an attorney-client relationship with Dr.</p> <p>13 Pernikoff?</p> <p>14 MR. BATTEN: No, I am not.</p> <p>15 MS. BERNSTEIN: So what is the basis</p> <p>16 of your privilege?</p> <p>17 MR. BATTEN: I'm asserting privilege</p> <p>18 in that any communications with Dr. Pernikoff</p> <p>19 regarding Miss Casey or this case are privileged</p> <p>20 communications as a consultant involved in this</p> <p>21 case. His assistance was necessary and his</p> <p>22 involvement was necessary in order to be able to</p> <p>23 provide Miss Casey with the appropriate knowledge</p> <p>24 and understanding that Dr. Pernikoff has as a</p> <p>25 veterinarian in furtherance thereof.</p>	<p style="text-align: right;">Page 16</p> <p>1 A I'm confused.</p> <p>2 Q Yes. Yes. He can raise objections</p> <p>3 and, as he might throughout, and a court might</p> <p>4 later decide whether your testimony is admissible.</p> <p>5 It's procedural. Unless your lawyer tells you not</p> <p>6 to answer a question --</p> <p>7 MR. BALDWIN: I'm not in a position</p> <p>8 to do that right now.</p> <p>9 MS. BERNSTEIN: Right.</p> <p>10 A So yes, I actually met the attorney,</p> <p>11 Mr. Batten, down at the center, the first visit.</p> <p>12 Q (BY MS. BERNSTEIN) Okay. At</p> <p>13 Missouri Primate Foundation?</p> <p>14 A Yes. And we walked around and kinda</p> <p>15 introduced him to the physical space and the</p> <p>16 critters.</p> <p>17 Q Do you know approximately when that</p> <p>18 was? Was it a month ago, two months ago?</p> <p>19 A As long as I guess he's been</p> <p>20 involved, yeah.</p> <p>21 Q Okay. So it was your understanding</p> <p>22 he had just become involved in the case?</p> <p>23 A He had just, yeah, it was the first</p> <p>24 time he was going to see them at the center.</p> <p>25 Q And when you walked around, did</p>

4 (Pages 13 to 16)

<p style="text-align: right;">Page 25</p> <p>1 your objection?</p> <p>2 MR. BATTEN: No, I am not.</p> <p>3 Q (BY MS. BERNSTEIN) Did -- did you</p> <p>4 have any communications or conversations with Mr.</p> <p>5 Batten at that time?</p> <p>6 A No.</p> <p>7 Q Did you have any communications with</p> <p>8 Connie at that time?</p> <p>9 A No.</p> <p>10 Q So you went there and you were told</p> <p>11 you have no business being in there and that was</p> <p>12 the extent of it?</p> <p>13 A Right.</p> <p>14 Q Okay. And have you had any other</p> <p>15 conversations with Mr. Batten or any other lawyers</p> <p>16 for -- for Miss Casey?</p> <p>17 A No.</p> <p>18 MR. BATTEN: Object that the question</p> <p>19 seeks confidential and privileged communications.</p> <p>20 MS. BERNSTEIN: So it is your</p> <p>21 position that a question that merely wants to know</p> <p>22 whether there was a conversation, that in itself is</p> <p>23 privileged?</p> <p>24 MR. BATTEN: That's what I'm</p> <p>25 asserting.</p>	<p style="text-align: right;">Page 27</p> <p>1 he apparently was on the board, I don't know that</p> <p>2 he ever did any --</p> <p>3 MS. BERNSTEIN: Okay.</p> <p>4 MR. BALDWIN: Okay.</p> <p>5 MS. BERNSTEIN: Fair enough. I did</p> <p>6 not mean to imply that you served. Point well</p> <p>7 taken.</p> <p>8 Q (BY MS. BERNSTEIN) So your purported</p> <p>9 role as a member of the Missouri Primate</p> <p>10 Foundation's governing board was, for all intents</p> <p>11 and purposes, non-existent?</p> <p>12 A In my, yeah, in my opinion, yes.</p> <p>13 Q And sitting here today you do not</p> <p>14 even know exactly during what time span that took</p> <p>15 place?</p> <p>16 A Right.</p> <p>17 Q Because it really didn't take place;</p> <p>18 right?</p> <p>19 A You know, again, I wasn't involved in</p> <p>20 any.</p> <p>21 Q At some point were you asked to be,</p> <p>22 and perhaps for purposes of this deposition, when I</p> <p>23 refer to "MPF," I mean Missouri Primate Foundation,</p> <p>24 whether or not it existed in an official corporate</p> <p>25 form or not. Sort of the business of the</p>
<p style="text-align: right;">Page 26</p> <p>1 MS. BERNSTEIN: All righty.</p> <p>2 Q (BY MS. BERNSTEIN) Dr. Pernikoff,</p> <p>3 you are represented by counsel here today?</p> <p>4 A Yes.</p> <p>5 Q Do you have information how Miss</p> <p>6 Casey used Missouri Primate Foundation's funds and</p> <p>7 whether she may have used them for her own personal</p> <p>8 benefit?</p> <p>9 A I do not.</p> <p>10 Q Do you know if Missouri Primate</p> <p>11 Foundation has or had any assets?</p> <p>12 A I do not.</p> <p>13 Q Do you know how the organization was</p> <p>14 capitalized, if at all?</p> <p>15 A I mean, I don't know specifically.</p> <p>16 Q Have you ever seen or asked to see</p> <p>17 any documentation relating to Missouri Primate</p> <p>18 Foundation's finances?</p> <p>19 A No.</p> <p>20 Q Do you know who the other members of</p> <p>21 the board were during the time that you served on</p> <p>22 Missouri Primate Foundation's governing board?</p> <p>23 A I do not.</p> <p>24 MR. BALDWIN: I'm going to object to</p> <p>25 the use of the term "serve." The time during which</p>	<p style="text-align: right;">Page 28</p> <p>1 foundation I will refer to as MPF.</p> <p>2 A Okay.</p> <p>3 Q Thank you. At some point were you</p> <p>4 asked to become MPF's attending veterinarian?</p> <p>5 A Never formally.</p> <p>6 Q You -- there was never a formal</p> <p>7 arrangement between you and MPF or any of MPF's</p> <p>8 representatives to be the attending veterinarian</p> <p>9 for the chimpanzees; is that correct?</p> <p>10 A Correct. There was none.</p> <p>11 Q Were you ever asked to sign a written</p> <p>12 program of veterinary care of the chimpanzees?</p> <p>13 A You mean through the MPF?</p> <p>14 Q Or any other entity who owned or</p> <p>15 controls MPF?</p> <p>16 A No.</p> <p>17 Q Did you ever -- just to be clear, are</p> <p>18 you aware that the -- that there are certain Animal</p> <p>19 Welfare Act regulations governing how the</p> <p>20 chimpanzees at MPF must be cared for?</p> <p>21 A That's kind of a vague question. I</p> <p>22 mean, I understand that there has to be good</p> <p>23 husbandry and good welfare.</p> <p>24 Q Do you understand that a written</p> <p>25 program of veterinary care may be required to be</p>

7 (Pages 25 to 28)